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AB

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|----------------------|------------------|
| 09/428,458 | 10/28/1999 | KJETIL TASKEN | Q-56244 | 4681 |
| 7590 | 01/03/2005 | | EXAMINER | |
| SUGHRUE MION ZINN MACPEAK & SEAS PLLC 2100 PENNSYLVANIA AVENUE N W WASHINGTON, DC 200373202 | | | LACOURCIERE, KAREN A | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1635 | |

DATE MAILED: 01/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 09/428,458 | TASKEN ET AL. | |
| | Examiner | Art Unit | |
| | Karen A. Lacourciere | 1635 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 31 August 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 40,45,48 and 49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 40,45 and 48 is/are rejected.
- 7) Claim(s) 49 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date 10-12-2004.
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 31, 2004 has been entered.

Oath/Declaration

The objection to the Declaration, set forth in the prior Office action, mailed 2-11-2004, is withdrawn in response to the Declaration filed 06-10-2004.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claim 40 is maintained as rejected under 35 U.S.C. 102(b) as being anticipated by Gjertsen et al. (J. Biol. Chem. (1995), 270 (35), 20599-607)

Claim 40 is drawn to a pharmaceutical composition comprising a camps analogue, including Rp-8-4-chlorophenyl-thio-CAMPs, and a pharmaceutically acceptable filler.

Gjertsen et al. teach a composition comprising Rp-8-4-chlorophenyl-thio- camps and a buffer (see page 20600, col. 1, "Experimental Procedures"), wherein the buffer would be encompassed in the term "a pharmaceutically acceptable adjuvant or filler."

Therefore, Gjertsen et al. anticipates claim 40.

Claims 40, 45, and 48 are rejected under 35 U.S.C. 102(b) as being anticipated by Jackson (Pharmacology 1996, 52:226-234).

Claim 40 is drawn to a pharmaceutical composition comprising a camps analogue, including Rp-8-4-chlorophenyl-thio-CAMPs, and a pharmaceutically acceptable filler. Claims 45 and 48 are drawn to methods of enhancing T-cell proliferation by administering to a subject in need thereof a pharmaceutical composition comprising a camps analogue, including Rp-8-4-chlorophenyl-thio-CAMPs.

Jackson discloses a pharmaceutical composition comprising Rp-8-4-chlorophenyl-thio-CAMPs and administering the composition to a hamster subject. Since the composition is the same as the instantly claimed composition, it would be expected that administering the composition to a subject would inherently enhance T-cell proliferation. The hamster is considered to be in need thereof because enhanced T-cell proliferation is beneficial to the immune system for, for example, avoiding infection.

Allowable Subject Matter

Claim 49 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen A. Lacourciere whose telephone number is (571) 272-0759. The examiner can normally be reached on Monday-Thursday 7:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John L. LeGuyader can be reached on (571) 272-0760. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Karen A. Lacourciere
KAREN A. LACOURCIERE, PH.D
PRIMARY EXAMINER

Karen A. Lacourciere
December 22, 2004